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APPLICATION NO.	FILED DATE	FIRST NAME/INVENTOR	ATTORNEY DOCKET NO.	INFORMATION NO.
09-785,793	02/16/2001	Bertrand Seraphin	70436	5838

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EXAMINER
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HINES, JANA A

ATTENDEE	PAPER NUMBER
	648

DATE MAILED: 09/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09 785,792

Applicant(s)

SERAPHIN ET AL

Examiner

Art Unit

Ja-Na A Hines

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

Extensions of time may be granted under the 35 U.S.C. § 133, if the right to extend is exercised and determined by:  
a) after 5 to 6 MONTHS from the mailing date of this communication  
b) if the period for reply, specified above, is less than that, 30 days are added to the statutory minimum of three months with the consideration that:  
i) NO period for reply is specified above, the normal statutory period will apply and will expire SIX MONTHS from the mailing date of this communication  
ii) failure to reply within the set or extended period will result in the abandonment of the application. See 37 CFR 1.43  
An extension of time may be granted under the above conditions after the mailing date of this communication if the right to extend is exercised. See 37 CFR 1.44

### Status

1) Responsive to communication(s) filed on 16 February 2001.  
2a) This action is **FINAL**.      2b) This action is non-final.  
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 1-20 and 23-28 is/are pending in the application.  
4a) Of the above claim(s)        is/are withdrawn from consideration  
5) Claim(s)        is/are allowed.  
6) Claim(s)        is/are rejected  
7) Claim(s)        is/are objected to  
8) Claim(s) 1-20 and 23-28 are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner  
10) The drawing(s) filed on        is/are a)  accepted or b)  objected to by the Examiner  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a)  
11) The proposed drawing correction filed on        is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action  
12) The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f)  
a) All b)  Some \* c)  None of:  
1)  Certified copies of the priority documents have been received.  
2)  Certified copies of the priority documents have been received in Application No.       .  
3)  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a))  
\* See the attached detailed Office action for a list of the certified copies not received  
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application)  
a)  The translation of the foreign language provisional application has been received  
15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121

### Attachment(s)

1)  Notice of Rejection (see PCT Rule 17.2)

4)  Review Summary (PCT Rule 14.19) Paper No.       

2)  Notice of Allowance (see PCT Rule 14.19) Paper No.       

5)  Notice of Abandonment (see PCT Rule 14.19) Paper No.       

3)  Statement of Reasons for Rejection (see PCT Rule 17.2)

6)  Other:

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-11 are drawn to a method for detecting and/or purifying substances or biomolecules, classified in class 435, subclass 328.
  - II. Claims 12-13 are drawn to a fusion protein classified in class 424, subclass 134.1.
  - III. Claims 14-26 are drawn to nucleic acids, host cells, vectors comprising heterologous nucleic acid sequences in the form of one or more cassettes and associated reagent kits classified in class 435, subclass 91.42.
  - IV. Claim 27 is drawn to a method for detection and/or purification of substances capable of complexing with fusion proteins, classified in class 435, subclass 70.2.
  - V. Claim 28 is drawn to a method for detection and/or purification of cells and/or organelles expressing a fusion protein, classified in class 435, subclass 243.
2. The inventions are distinct, each from the other because of the following reasons:  
The methods of Group I, IV and V are distinct as claimed because they have different methods with different method steps; different functions and the effects have different final outcomes. Group I is drawn to a method for detecting and/or purifying substances or biomolecules; Group IV has a different function, drawn to a method for detection and/or purification of substances capable of complexing with fusion proteins;

while Group V is drawn to a method for detection and/or purification of cells and/or organelles expressing a fusion protein which is entirely different then evaluating whether bacteria will pass through a material. The method of group I does not utilize the same starting reagents i.e., biomolecules, substances capable of complexing with fusion proteins and cells and/or cell organelles. Neither do any of the groups produce the same results when compared with the other groups. Moreover, group I has additional steps that neither group IV nor V have. Each group produces different effects and different functions when compared to the other groups. Therefore, the inventions are unrelated.

Inventions II and III are related as different products. Group II is drawn to a fusion protein while group III is drawn to vectors comprising heterologous nucleic acid sequences in the form or one, two or more cassettes and associated reagent kits. The products are distinct as claimed because they have different structures and different uses. The different vectors comprise different nucleic acids with code for different products such as a heterologous nucleic acid as recited in group III. Each group has a different function, effect and is capable of use without the other. For instance, group II can encode a fusion protein which group III cannot. Group II does not have a vector comprised of heterologous nucleic acid sequences. Each group has a different structure, produces different effects and has a different function from the other group. Therefore, the products of the inventions are distinct as claimed.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II-V, restriction for examination purposes as indicated is proper.
5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
6. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ja-Na Hines whose telephone number is 703-305-0487. The examiner can normally be reached on Monday-Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith can be reached on 703-308-3909. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4242 for regular communications and 703-308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Ja-Na Hines

August 26, 2002